

WC-10-101

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

THREE EMPIRE STATE PLAZA, ALBANY 12223

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DAVID E. BLABEY
Counsel

JOHN J. KELLIHER
Secretary

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MAY 29 1985

ENFORCEMENT DIVISION


May 21, 1985

Federal Communications Commission
Attention: Margaret Wood, Esq.
Room 6206
1919 M Street, N.W.
Washington, D.C. 20554

Dear Ms. Wood:

By this letter, I certify that the New York State Public Service Commission has adopted and made public a specific methodology for regulation over attachments to utility poles.

Very truly yours,


John J. Kelliher
Secretary

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a Session of the Public Service
Commission held in the City of
New York on October 3, 1984

COMMISSIONERS PRESENT:

Paul L. Gioia, Chairman
Edward P. Larkin
Carmel Carrington Marr
Harold A. Jerry, Jr.
Anne F. Mead
Rosemary S. Pooler

CASE 26494 - NEW YORK STATE CABLE TELEVISION ASSOCIATION-
Investigation of Pole Attachment and Related
Agreements Between Utilities and CATV Systems

ORDER APPROVING POLE ATTACHMENT RATES AND REQUIRING
NEW YORK TELEPHONE AND CENTRAL HUDSON TO PERMIT
RENTAL PAYMENTS BY CABLE TELEVISION COMPANIES
TO BE PAID INTO ESCROW ACCOUNTS

(Issued October 19, 1984)

BY THE COMMISSION:

By our Opinion No. 83-4, issued January 31, 1983, we prescribed a method pursuant to Section 119-a of the Public Service Law by which electric and telephone utilities should calculate rates for cable television attachments to their poles. We ordered the utilities to file these rate calculations by April 1, 1983 and allowed for comment by interested parties. In addition, we ordered New York Telephone to file, by April 1, 1983,

supporting calculations and a plan for refunding to cable television companies a portion of the attachment revenues it received after March 18, 1980, the date we ordered New York Telephone's then current \$5.00 rate to be subject to future refunds or reparations pending the adoption of an attachment rate formula.¹

A total of 26 telephone companies and the seven investor-owned electric utilities filed proposed pole attachment rates. The New York State Cable Television Association (NYSCTA) objected to the rate calculations of six of the seven power companies, and three telephone companies. NYSCTA was the only party to submit comments or objections.

At our May 18, 1983 session, we allowed the rates filed by 23 telephone companies and Rochester Gas and Electric Corporation to become effective June 3, 1983 on a permanent basis. In an order issued May 27, 1983,² we allowed the rates

1

Case 26494, Order Establishing Conditions Upon Which New York Telephone Company May Increase Its Annual CATV Pole Attachment Fees Pending a Final Commission Decision.

2

Case 26494, Order Denying Petitions For Rehearing and Providing for Temporary Rates.

of the six power companies and the three telephone companies whose filings were opposed by NYSCTA to become effective on a temporary basis on the sixtieth day following receipt, subject to future refunds or reparations pending investigation of NYSCTA's objections.

Staff has completed its review of the rate filings and NYSCTA's objections and recommends approval of the rates subject to the modifications shown in Appendix I. Upon review we find Staff's recommendations reasonable and will direct the utilities to file revised pole attachment rates, consistent with Appendix I. Pursuant to these rates, the companies, other than New York Telephone, shall make refunds, or be entitled to collect reparations, for the period commencing with the effective dates listed in Appendix I and ending on the effective date of the new rates. New York Telephone shall issue refunds or be entitled to collect reparations, based on its plan filed April 1, 1983, in compliance with Opinion No. 83-4, for the period beginning March 18, 1980 and ending June 3, 1983.

Based on our review of the controversy between Central Hudson and New York Telephone concerning joint use poles, we have determined that both companies shall be prohibited from collecting revenues from the cable television companies, that have attached cables to the utilities' jointly-owned poles, provided such companies place rental payments in an escrow account

pending resolution of the utilities' dispute. Central Hudson and New York Telephone shall treat such cable television companies in all respects as if the rentals had been paid to the utilities.

The Commission Orders:

1. The utilities listed in Appendix I shall file, not later than October 26, 1984, revised pole attachment rates, as set forth in Appendix I, to be effective on not less than one day's notice. Newspaper publication of the new rates is hereby waived.

2. The utilities, other than New York Telephone Company, shall, as applicable, make refunds to, or be entitled to collect reparations from, cable television companies, based upon the difference between the utility-filed rates and the approved rates, as set forth in Appendix I, for the period commencing with the effective dates listed in Appendix I and ending with the effective date of the new rates filed pursuant to Ordering Paragraph No. 1. New York Telephone Company shall issue refunds to or be entitled to collect reparations from cable television companies, based upon its plan filed in compliance with Opinion No. 83-4, for the period beginning March 18, 1980 and ending June 3, 1983.

3. New York Telephone Company and Central Hudson Gas & Electric Corporation shall not collect rental payments from any

cable television companies listed in Appendix II that have attached cables to the utilities' jointly-owned poles, provided such cable television companies place such rental payments in escrow accounts pending resolution of the dispute between the utilities concerning joint use poles. New York Telephone and Central Hudson shall provide services and facilities in all respects to such cable television companies as if the rentals had been paid to the utilities.

4. This proceeding is continued.

(Signed)

By the Commission,

JOHN J. KELLIHER
Secretary

Appendix I

POLE ATTACHMENT RATES

<u>UTILITY</u>	<u>COMPANY FILED RATE</u>	<u>STAFF RECOMMENDED & COMMISSION APPROVED</u>	<u>EFFECTIVE DATE</u>
Con-Ed	\$9.38	NYC \$8.64 Westchester \$8.39	6/1/83
LILCO	\$4.40	\$4.18	6/5/83
NYSEG	\$4.38	\$4.49	6/3/83
NYT	\$5.89	\$5.89	6/3/83
NMPC	\$4.92	\$5.37	6/3/83
O&R	\$5.97	\$5.97	6/3/83
HIGHLAND			
Sole	\$9.18	combined \$3.57	5/31/83
Joint	\$3.24		
SYLVAN LAKE			
Sole	\$9.43	combined \$3.24	5/31/83
Joint	\$3.01		
CENTRAL HUDSON			
Sole	\$5.17	combined \$5.17	6/3/84
Joint	\$2.59		

Appendix II

Cable Companies which are attached to joint
Central Hudson/New York Telephone Poles

Cablevision Industries
P.O. Box 311
Liberty, NY 12754

Cablevision Industries
Orange County Division
Industrial Drive
Middletown, NY 10940

Cablevision Industries
Sullivan Division
P.O. Box 311
Liberty, NY 12754

U.S. Cablevision Corp.
P.O. Box 231
Beacon, NY 12508

Dutchess County Cablevision
P.O. Box 367
Dover Plains, NY 12522

Mid-Hudson Cablevision
(including co-owned Catskill
Mountain Cablevision)
P.O. Box 399
Catskill, NY 12414

Tele-Communications Inc.
(including co-owned Kingston
Cablevision and Poughkeepsie
Cablevision)
2716 Albany St.
Schenectady, NY 12304

Group W Cable, Inc.
Group W Cable - Newburgh
P.O. Box 188
Vails Gate, NY 12584

Park Cable
Box 3263
Kingston, NY 12401

Vidacable Systems
RD Box 161
High Falls, NY 12440

Simmons Cable TV of Ellenville
177 Canal St.
Ellenville, NY 12428

Cablemaster Corp.
PO Box 235
Hunter, NY 12442

Olive Cablevision Comp.
Box 204
Shokan, NY 12481

American Cablesystems of NY
(including Hudson Valley
Cablesystems)
One Dixon Lane
Tarrytown, NY 10591

Cablevision Industries
Saugerties Division
124 Partition St.
Saugerties, NY 12477